



NOV 29 1999

The Administrator
Washington, D.C. 20201

Mr. Rod L. Betit
Executive Director
Utah Department of Health
288 North 1460 West
Salt Lake City, Utah 84114

Dear Mr. Bedt:

I am writing with regard to your proposed amendment, dated January 28, 1999, to Utah's Children's Health Insurance Program (Title XXI) State plan under the Social Security Act. The amendment includes provisions for the State to impose cost sharing on beneficiaries with family incomes below 100 percent of the Federal poverty level (FPL) effective August 3, 1998. In general, I appreciate Utah's efforts to provide health care coverage to uninsured children. It is with regret, however, that I must inform you that the Secretary of the Department of Health and Human Services has concluded that the amendment to your approved Title XXI plan does not comply with the requirements of Title XXI.

As we indicated to you in previous correspondence dated April 27, 1999, the cost sharing provisions of the Utah program in effect during the period for which you seek approval are inconsistent with the requirements of Section 2103(e)(3)(A) of the Social Security Act. That section specifies that the maximum amounts that a State may impose under Title XXI for cost sharing must be nominal, consistent with regulations implementing section 1916(a)(3) for persons covered by Medicaid, "with such appropriate adjustment for inflation or other reasons as the Secretary determines to be reasonable." In a February 13, 1998 letter to State Health Officials, we stated that, because Title XXI is designed for families with incomes above the Medicaid eligibility levels, the Secretary would adjust the limits for Title XXI cost sharing. That rationale does not apply to the population you have proposed serving, since that population does not have incomes above the Medicaid eligibility levels. Thus, we have determined that an adjustment is not appropriate for this population, and will not be extended to cost sharing imposed on families with incomes below 100 percent of the FPL. For those families, the maximum co-payment levels must be limited to the nominal co-payments described in Medicaid regulations at 42 CFR 447.54 (without adjustment). Since your proposed amendment would impose higher cost sharing than these levels, I cannot approve the proposal.

Under Section 2106(c) of the Social Security Act, the Secretary may approve, disapprove, or request additional information on a proposed Title XXI State Plan amendment within ninety days. This State plan amendment proposes to include under Title XXI cost sharing in excess of that permissible under section 2103(e)(3)(A) effective August 3, 1998.

Therefore the Secretary has concluded that the State's amendment submitted on January 28, 1999, does not substantially comply with the requirements of Title XXI, and therefore she is disapproving it. This letter constitutes an official notification of the Secretary's disapproval. If you are dissatisfied with this decision, you may petition for a reconsideration of this decision within 60 days after the date of receipt of this letter, by submitting a written request for reconsideration to the project officer and the regional office, which are identified below.

In addition, the State must discontinue the practice of applying copayments in excess of those allowable under its approved State plan. Section 2106(c)(3) provides States with a reasonable opportunity for correction before taking financial sanctions against the state on the basis of disapproval. Consistent with that requirement, we are offering Utah an opportunity to submit a plan of correction within 30 days describing how your program will be brought into compliance with your approved State plan within 60 days of your submission of an acceptable plan of correction. Your project officer and members of the review team will be happy to work with you to assist in the development of this plan of correction. If Utah does not submit an acceptable plan of correction, we may pursue financial sanctions.

If you wish to further discuss the implications of this disapproval, please contact your Project Officer, Diona Kristian. Ms. Kristian is available to answer any questions concerning your Title XXI proposal and can be reached at (410) 786-3283. The address is:

Health Care Financing Administration
Center for Medicaid and State Operations
Family and Children's Health Programs Group
Division of Integrated Health Systems
Mail Stop S2-01-16
7500 Security Boulevard
Baltimore, Maryland 21244-1850

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Official communications regarding program matters should be sent simultaneously to the Project Officer and to ^{Spencer} Eric — Associate Regional Administrator for the HCFA Region — Division of Medicaid and State Operations. Mr. Ericson can be reached at (303) 844-1977.

Sincerely,

Nancy-Ann Min DeParle
Administrator

cc:
Spencer Ericson
Chad Westover